



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,128	12/04/2003	Robert B. Nilsen	043927-004054USPT	7639
26774 7590 03/25/2010 NIXON PEABODY LLP - PATENT GROUP 1100 CLINTON SQUARE ROCHESTER, NY 14604				
EXAMINER				
SEFER, AHMED N				
ART UNIT		PAPER NUMBER		
2893				
MAIL DATE		DELIVERY MODE		
03/25/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/728,128

Applicant(s)

NILSEN ET AL.

Examiner

AHMED SEFER

Art Unit

2893

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11-13 and 27 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment and the supplemental amendment filed on 1/5/2010 and 3/18/2010 have been entered and claims 2-4, 9, 24 and 26 have been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 11, 12 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Gale et al. ("Gale") US PG-Pub 2002/0191286.

Gale discloses an optical polarizer film comprising a substrate (par. 17) having a subwavelength moth-eye structure (par. 3) including peaks and valleys and an intermittent surface (e.g. the slope-evaporated metal shown in figs. 1b and 1c) covering at least a portion of the substrate and providing polarization.

Re claim 11, Gale discloses the intermittent surface being a light-transmissive inhibiting surface covering at least some of the peaks (fig. 1c).

Re claim 12, Gale discloses a substantially transparent coating disposed on the polarizer film (par. 21).

Re claim 27, Gale discloses a substantially transparent coating disposed on the polarizer film (par. 21).

4. Claim 13 is rejected under 35 U.S.C. 102(c) as being anticipated by Gale.

Gale discloses a polarizer comprising at least one subwavelength optical microstructure (par. 3) including an undulating surface that includes an intermittent light- transmissive inhibiting surface in at least some raised areas of the microstructure (figs. 1b and 1c).

Response to Arguments

5. Applicant's arguments filed 1/5/10 have been fully considered. While the argument regarding claim 10 is persuasive (see page 4, lines 15-21 of Applicant's Remarks), they are not persuasive regarding the rest of the claims. Applicant argues that a support for claim 1 can be found in provisional application 60/225,246 at least page 15, claim 1; at least at pages 7 and 8, lines 25-26 and lines 1-3 respectively; and figs. 1, 3 and 4 (see pages 3 and 4, lines 24-32 and 1 respectively of Applicant's Remarks). See also pages 4 and 5 of Applicant's Remarks for similar arguments regarding the rest of the claims.

This is not persuasive because none of the cited portions of the provisional application teach "an intermittent surface" as recited in the claims. As disclosed in the specification (see par. 74 of the now published US PG-Pub 2004/0169791) a conductive coating can be removed from the peaks providing an intermittent conductive coating 72 or material... Furthermore, because the regular nature of the peaks and valleys, removal of the conductive coating would produce an intermittent surface covering at least a portion of the substrate ... (see also page 7, lines 5-8 of Applicant's Remarks filed 7/14/2008). Since none of the cited portions of the provisional application teach "an intermittent surface," the claims are not supported by the parent application

(provisional application 60/225,246). Therefore, the effective filing date of this Child CIP is 12/4/2003. See MPEP 2133.01

Allowable Subject Matter

6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: None of the cited art discloses a conductive coating disposed on an intermittent surface in at least some valleys as recited in claim 10.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer telephone number is (571)272-1921.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davienne Monbleau can be reached on (571) 272-1945.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. Sefer/
Primary Examiner
Art Unit 2893